

II. REMARKS

A. Introduction

The Claims pending in this application as originally presented are numbered 1 – 21, Claims 1 -11 and 14-21 of which stand rejected while Claims 12-13 are objected to but are otherwise allowable if properly rewritten.

New dependent Claim 22-25 are presented in this amendment, for credit card charge authorization form (PTO 2038) has been included, allowing a charge amount of \$ 36.00 for the addition herein of four new claims (Claim 21 having previously been paid for at the time of original filing hereof as the result of a preliminary amendment).

Applicant respectfully requests reconsideration of the subject Office action for the reasons as hereinafter set forth.

B. The Rejection of Claims 1-11 and 14-21

The Examiner has rejected Claims 1-5, 7-11 and 14-21 under 35 USC 103(a) based on the principal reference patent to Porter (reference A), as modified in the manner proposed by certain teachings supposedly contained in the secondary reference patent to Sluter (reference B). This combination of references, as further modified by

certain teachings in the Raptoplous patent (reference C), also forms the basis for the obviousness rejection of dependent Claim 6.

Specifically, the Examiner contends that Porter discloses a building structure having a non-load bearing "vertical member" supporting a plurality of beams in a radial manner which extend below the member and which are supported on posts. Sluter is cited for its showing of a series of parallel, registered and spaced apart roof trusses which are cross-braced in a unique manner.

The Examiner holds that it would have been obvious to substitute the trusses of Sluter in place of the beams of Porter to obtain the invention as claimed by applicant. Applicant vigorously disagrees with the Examiner's reasoning for the reasons hereinafter set forth.

C. Telephone Interview of Oct. 29, 2003

The undersigned attorney expresses his thanks to the Examiner for the excellent telephone interview granted him on October 29, 2003 in which the cited prior art was reviewed and in which applicant's position was fully heard. At the conclusion of the interview, the Examiner determined that it would be best if applicant would file a formal response to the subject Office action explaining the latter's position in detail so that he could take them to his supervisor. An

additional claim, as proposed by the undersigned, for the purpose of more fully distinguishing over the references, was briefly discussed, which the Examiner suggested should be included by amendment in the response.

D. Applicant's Argument

First, applicant is troubled by the Examiner's use of the term "vertical member" in reference to the structure shown in the Porter patent. Clearly, this is shorthand for what applicant actually claims, namely, -- a vertically extending central column-- . The term "vertical member" is used by the Examiner in reference to what Porter calls, a "compression ring 17". See Porter, Col. 2, lines 45-51 and his Figs. 1-2.

The term used by the Examiner is a red-flag for hindsight because that term makes no sense in the context of Porter's teachings alone, absent reference to applicant's teachings. Certainly, as the Examiner pointed out in the interview, the Porter compression ring has some vertical height as, indeed, do all physically realizable structures and devices. But where the diameter of the reference compression ring is clearly so much greater than its height (See Porter, Fig.2), what, within a study of Porter alone, could possibly give meaning to such a term as "vertical member"? Only by reference to applicant's teachings

regarding his claimed — —vertically extending central column— —does such a term take on any meaning as relates to the reference “compression ring 17”. However, it is well settled that applicant’s own teachings can not be used against him in the proper application of 35 USC 103(a) to his claimed structure.

Second, Sluiter is not properly combinable with Porter in the manner suggested because Sluiter deals with cross-bracing of parallel, registered and spaced apart roof trusses. See Sluiter, Figs. 2-11. It is also well settled that a secondary reference must at least suggest, in and of itself, the modification of the principal reference as proposed by the Examiner. Sluiter makes no such suggestion because it deals exclusively with cross bracing of parallel, spaced apart and aligned roof trusses. Clearly, if the Sluiter trusses were substituted for the beams of Porter, the cross bracing taught in Sluiter in Figs. 2-11 could not be used as shown. Moreover, Sluiter does not teach or suggest how to modify the cross bracing for use with radially extending trusses, nor does he deal with a cone shaped roof structure. Thus, Sluiter does not suggest the modification proposed by the Examiner. Only applicant’s teaching does so, but such self-teaching can not properly be used to reject his claims.

Third, even if the Sluiter trusses could properly be substituted in place of the beams of Porter, on the theory that both references deal with roof structures, broadly speaking, there is no teaching or suggestion in either reference regarding means for attachment of both the upper beams 22 and lower beams 28 of Sluiter to the Porter compression ring 17, consistent with applicant's teachings and claims. It would appear that only the upper beams 22 of Sluiter could be adapted to fit against the Porter compression ring 17, consistent with the Porter teachings. Only by reference to applicant's own teachings, for example, as shown in his FIGS. 5, 9 and 11, is any suggestion or teaching to be found regarding a vertically extending central column of length sufficient to adjoin both upper and lower beams of the Sluiter trusses. But again, it is improper to use applicant's own teachings against him.

Fourth, in the structure taught and claimed by applicant, while the upper beams of his trusses are in compression against an upper end portion of the claimed vertically extending column (consistent with the action of Porter's beams against his compression ring 17), applicant's lower beams are in tension and are attempting to pull radially outwardly away from a lower end portion of his claimed central column. For this reason,

the applicant's lower beam must be securely fastened to the claimed central column as shown, for example, in his FIGS. 5 and 9.

Because of this action/reaction cancellation feature at his central column, applicant's roof assembly applies only a downward vertical load on the outer wall posts. For this reason, applicant's claimed structure does not require rigid, load bearing tension members or beams securely fastened around an upper end of the outer perimeter of the supporting posts such as shown at 15 in Porter's Figs. 1 and 5 and such as shown, as a further example, as headers 190 in Raptoplous. Without such tension members or headers 15, the beams of Porter would tend to push the upper ends of his support posts 11 radially outwardly away from the compression ring 17 and, consequently, away from each other, whereupon the reference roof would collapse. Not so with the roof structure claimed by the applicant.

It is important to appreciate that, in order to construct the roof structure of Porter, the tension members 15 must first be fastened to all posts around the structure, before any of the radial beams can be set, whereas, the horizontal action/reaction forces of applicant's claimed structure are canceled at and around his claimed central column such that no headers or tension members are required between upper ends of his posts. In Porter's structure, horizontal forces of the beams on the compression ring 17 must be offset by opposite forces at the upper ends of the posts which are distributed in a

series of peripherally extending tension member reinforcing beams or headers 15 tightly secured between adjacent posts.

While the Examiner indicated that he was principally interested in structure rather than forces acting on and in the structure, applicant believes a comparison of the forces acting in his and Porter's structure is important to consider in order to show the difference between the function of Porter's compression ring 17 and applicant's claimed vertically extending central column which is placed in compression on an upper end portion and in tension on a lower end portion. This difference in function is possible only because the structure of applicant's claimed central column is different than that of Porter's compression ring. Without such a structural difference, their respective functions would be identical, which is not the case here. Porter simply does not deal with a compression ring which is partially in tension and, consequently, does not deal with the problem and structure as dealt with and claimed only by applicant.

Now, regarding the rejection of Claims 8 and 16, it appears that the lower beams of the trusses of Sluiter are horizontal and are not "inclined at a second vertical angle relative to horizontal, said second angle being less than said first angle", as is shown, for example, in applicant's FIG. 5 and as is required by these claims. It is difficult to tell for sure in looking at Sluiter Fig. 1 alone because that view is one of perspective. But reference Fig. 9 is a side elevation view of the lower

beam 28 of Sluiter in which the reference lower beam clearly appears to be horizontally disposed. The underside of the reference lower beams would clearly form a flat ceiling in a horizontal plane unlike a ceiling attached to applicant's lower beams when constructed according to these claims.

Thus, in analyzing Sluiter alone, without reference to applicant's teachings, it seems clear that his lower beam is, indeed, horizontally disposed and is therefore not inclined at a "second vertical angle relative to horizontal" as is required by Claims 8 and 16. Accordingly, Claims 8 and 16 patentably define over the cited references for this additional reason.

E. Patentability of New Claims 22-25

New dependent Claims 22-25 are presented in the accompanying amendment. Claim 22 requires that the claimed trusses include an upper beam and a lower beam which are inclined at different angles such that the vertical spacing at their innermost ends is greater than such spacing between the beams at ends. The claim also requires that the innermost ends of the upper and lower beams are fixed in position relative to upper and lower ends of the claimed central column. This would cover direct connection of the inner most ends of the upper and

lower beams to upper and lower end portions of the central column as well as connection of such innermost ends to a spacer member which is, in turn, directly connected to the claimed central column as is specifically required by Claim 23. Claim 24 requires removable connection between the spacer member and central column, as, for example, by means of nut and bolt combinations which are specifically required by Claim 25, an example of which is shown by nut and bolt combinations at 54, 56 and 58 in FIG. 9 of applicant's drawings.

None of this claimed structure is shown or taught in the references of record.

E. Conclusion

For the foregoing reasons, upon entry of the accompanying amendment, applicant respectfully submits that his Claims 1-25 patentably define over all of the references of record, considered either individually or in combination, and that this application now stands in condition for allowance.

Such action is earnestly solicited.

In the event the Examiner finds any deficiency existing in this application following entry of the present amendment, he is requested to telephone the undersigned attorney at the number listed below so

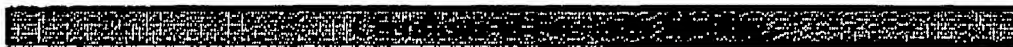
that such deficiency can be cured in the most expeditious manner.

Respectfully submitted,

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I hereby certify that this amendment and remarks, consisting of 16 pages of text, is being facsimile transmitted to Examiner Basil Katcheves, Art Unit 3653, of the Patent and Trademark Office [Fax No. (703) 306-4195], this day 14th of November, 2003.

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